



**Request for City Council Committee Action
From the City Attorney's Office**

Date: October 1, 2003
To: Ways & Means/Budget Committee
Referral to: None

Subject: Terrance Thompson v. City of Minneapolis et al, U. S. District Court file no. 03-3078 MJD/JGL

Recommendation: That the City Council approve settlement of the lawsuit filed by Terrance Thompson, United States District Court file no. 03-3078, in the amount of \$9,000.00, payable to Terrance Thompson and his attorney Jesse Gant III and authorize the City Attorney to execute any documents necessary to effectuate the settlement and release of claims, payable from Fund/Org. 6900 150 1500 4000.

Previous Directives: None.

Prepared by: Timothy S. Skarda, Assistant City Attorney, 673-2553

Approved by:


Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

- ☐ No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- ☐ Action requires an appropriation increase to the Capital Budget
- ☐ Action requires an appropriation increase to the Operating Budget
- ☐ Action provides increased revenue for appropriation increase
- ☐ Action requires use of contingency or reserves
- ☒ Other financial impact (Explain): Payment from Fund/Org. 6900 150 1500 4000
- ☐ Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact: Build Community

Background/Supporting Information

Terrance Thompson brought this action alleging civil rights violations of 42 U.S.C. § 1983 for the use of excessive force and false arrest and state torts of assault, battery and false arrest.

On March 4, 2003, Minneapolis police officers were dispatched to 3621 Clinton Avenue South, Apartment 4, concerning yelling in the apartment. The call came from another resident in the building. When the officers arrived at the apartment building there was a locked security door. The Plaintiff was behind the locked door and officers asked the Plaintiff to open the door. The Plaintiff refused and went to his apartment, stating that

his landlord had told him not to admit police without a warrant. The officers were not aware that the Plaintiff was the resident of the apartment that had generated the original call. The officers were able to eventually gain entry to the public portions of the apartment building. The officers went to apartment 4 and heard loud voices coming from behind the locked apartment door.

The officers advised the Plaintiff that he needed to open the door so they could determine whether anyone needed assistance. The Plaintiff refused to open the door. The Plaintiff and a woman in the apartment were arguing about opening the door. The officers contacted a supervisor to determine whether they should make a forced entry in order to check on the welfare of the occupants. The officers received permission to make a forced entry. The officers advised the Plaintiff that they were going to force the door open. As the officers prepared to force the door, the door was opened. The Plaintiff was told to put his hands behind his back for handcuffing and he refused. The Plaintiff was taken by his arm, bent over a couch and handcuffed. The Plaintiff was arrested for interfering with legal process and booked into the jail. The charges were subsequently dismissed.

The Plaintiff alleges that the officers were at the wrong apartment and that he was arrested in retaliation for not allowing the officers past the security door. The female resident of the Plaintiff's apartment has submitted an affidavit indicating that she and the Plaintiff were not involved in a dispute and the officers were told that they were at the wrong apartment. The Plaintiff and the female resident allege that the officers twisted the Plaintiff's arms, swore at the Plaintiff and used racially derogatory terms. The officers deny the use of any such language, stating that they wanted to enter the apartment to confirm the welfare of the residents.

After being released from the jail, the Plaintiff received emergency treatment at the Hennepin County Medical Center for shoulder and arm pain. The records indicate that the Plaintiff received a prescription for a pain killer and a referral to the Sports Medicine Clinic. The Plaintiff alleges that his shoulder was dislocated, but he received no subsequent medical treatment and cannot corroborate the level or severity of his injuries.

An early settlement conference before Magistrate Judge Jonathan Lebedoff was held on September 30, 2003. The settlement conference was attended by the Defendant police officers, Council Member Barbara Johnson, Deputy Chief Lucy Gerold and Assistant City Attorney Timothy Skarda. The settlement conference was scheduled before significant discovery had taken place to avoid the accrual of attorney's fees from becoming a significant impediment to settlement discussions. The City viewed the case as one involving minimal liability and damages. Prior to the settlement conference, the Plaintiff had demanded \$70,000.00 to compromise all his claims. If the case was not settled, the City planned to make a Offer of Judgment pursuant to Rule 68 of the Federal Rules of Civil Procedure in order to attempt to eliminate future liability for attorney's fees. The Rule 68 offer was contemplated to be between \$2,500.00 and \$5,000.00 and would include the payment of attorney's fees to the date of the offer. Based upon the number of hours expended in defending the case, we estimate that an attorney's fee claim to be at least \$6,500.00. The proposed settlement was reached in an amount that the City estimated was equal to or less than the value of the proposed Rule 68 Offer of Judgment. By reaching the proposed settlement at a specific value that included attorney's fees claims, the possibility of an unexpectedly large attorney's fees claim was eliminated. The proposed settlement was reached in an amount that, according to the best estimate of the City, equaled an Offer of Judgment in an amount of \$2,500.00. Additionally, the officers will be dismissed from the lawsuit and the settlement reached with the City of Minneapolis. The parties involved in the settlement conference believe that the proposed settlement is in the best interests of the City of Minneapolis and jointly recommend its approval.